

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

No. CR06-60Z

Defendant.

ORDER

Defendant Valdez's motion to suppress and request for an evidentiary hearing, docket no. 14, is DENIED for the reasons set forth in this Order.

(1) Stop of pickup and search of Defendant

19 The motion is denied as to the stop of the gray 2002 Chevrolet pickup truck
20 Defendant was driving on January 24, 2006. The officers had a valid warrant to seize and
21 search the gray 2002 Chevrolet pickup. The seizure of the pickup did not violate the Fourth
22 Amendment. Camara v. Municipal Court, 387 U.S. 523, 528-29 (1967). Defendant does not
23 challenge the search warrant for the pickup. The Defendant was driving the pickup at the
24 time of its seizure. As a result of the valid stop and search of the pickup, the officers had the
25 legal right to detain the Defendant while the search was conducted. The pickup in question
26 had been used in at least two control buys involving heroin in little over a week before the

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1 stop and search, and the officers had reason to suspect that the driver of the pickup might be
 2 involved in some type of criminal activity. The facts supporting the officers' belief is set
 3 forth in the search warrant affidavit of Officer C. Martin to search the pickup, Exhibit A to
 4 the Government's Opposition, docket no. 16. The officers had the legal right to detain the
 5 Defendant while a search of the pickup was conducted. See Michigan v. Summers, 452 U.S.
 6 692, 705 (1981). The handcuffing and subsequent "pat down" search of Defendant was also
 7 proper for officer safety. See United States v. Hensley, 469 U.S. 221, 235 (1985). The
 8 officers found "three hard bulges" which they had reasonable grounds to remove and search.
 9 Upon discovery that the bulges contained heroin the officers had probable cause to arrest
 10 Defendant. See United States v. Mattarolo, 209 F.3d 1153, 1158 (9th Cir. 2000).

11 (2) Search of residence at 18311-116th Avenue SE Renton, Washington

12 The search warrant for the residence at 18311-116th Avenue SE, Renton, Washington,
 13 was supported by probable cause. Officer Martin's search warrant affidavit, Exhibit A to
 14 docket no. 16, Bates Stamp Nos. 000033-40, provides substantial evidence to support the
 15 probable cause. It was reasonable under all the circumstances to seek evidence of drug
 16 trafficking at the Renton residence. See United States v. Chavez-Miranda, 306 F.3d 973,
 17 978 (9th Cir. 2002). The search of the garage did not exceed the scope of the search warrant.
 18 See United States v. Furrow, 229 F.3d 805, 816 (9th Cir. 2000), overruled on other grounds
 19 by United States v. Johnson, 256 F.3d 895 (9th Cir. 2001) (en banc).

20 (3) Defendant's statements are admissible under Miranda

21 Defendant contends any statements were the "fruit of the poisonous tree." The
 22 Defendant's Miranda challenge must fail because the Court finds the stop of the pickup, the
 23 search of the Defendant, and the subsequent arrest, were proper. Notably, Defendant has not
 24 even challenged whether the waiver of Miranda rights was voluntary.

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1 (4) No evidentiary hearing is required

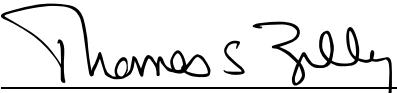
2 No evidentiary hearing is required. The search warrant and affidavit stated probable
3 cause to seize the pickup and search the Renton residence and garage. The stop, search, and
4 arrest of the Defendant, was proper. Defendant fails to raise any issue of fact under Miranda
5 which would require an evidentiary hearing.

6 (5) Conclusion

7 For the reasons stated, the motion to suppress is DENIED.

8 IT IS SO ORDERED.

9 DATED this 5th day of April, 2006.

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12 Thomas S. Zilly
13 United States District Judge
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